

REMARKS

Claims 1-34 are pending in the application.

The Examiner is requiring that the claims be restriction to one of two inventions as set out below:

(1) Group I - Claims 1-19; drawn to a method for improving the effectiveness of an oral care agent, classified in class 15, subclass 209.1; and

(2) Group II - Claims 20-34; drawn to a kit and an article, classified in class 424, subclass 53.

As basis for the restriction, the Examiner states that the inventions of group I and group II are independent as product and process of use. The Examiner states that the invention of Group II may be "used to wipe and permeate with water and use the solution as a mouth rinse."

The applicants respectfully traverse the restriction requirement and request that it not be imposed.

To demonstrate distinctiveness when the invention are related as a product and process of use, the Examiner must show (1) that the process of using as claimed can be practiced with another materially different product and/or (2) the product as claimed can be used in a materially different process. M.P.E.P. 805.05(h) To support this showing, the burden is on the Examiner to provide a workable alternative. *Id.*

In the present circumstance, the Examiner has not met this burden. The Examiner provides uses for the individual components of the invention of Group II, but fails to articulate a whole process that is materially different from that recited in Group I in which the product of Group II, not the individual components, may be used.

For at least this reason, it is submitted that the Examiner has provided no basis for distinctiveness of the inventions of Group I and Group II. It is respectfully requested that the Examiner reconsider and withdraw the restriction requirement.

Provisional Election

In the event that the Examiner does not withdraw the requirement of restriction, the applicants hereby provisionally elect with out prejudice the invention of Group I (claims 1-19) for initial prosecution.

Respectfully submitted,

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